

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

ZACHARY ROWELL, as Special)	
Administrator in the matter of the estate)	
of Marvin A. Rowell, and individually,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-18-125-RAW
)	
BOARD OF COUNTY)	
COMMISSIONERS OF MUSKOGEE)	
COUNTY, OKLAHOMA, et al.,)	
)	
)	
)	
)	
)	
Defendants.)	

ORDER

Before the court is the motion of defendant Rob Frazier for summary judgment. In a companion order, the court described the factual record and granted the motion for summary judgment of defendant Dakota West. The court found that, even viewing the record in the light most favorable to the plaintiff, West did not commit a constitutional violation. Accordingly, the §1983 claim against movant (the Sheriff of Muskogee County, sued in his official capacity) necessarily fails.

An official capacity claim is the same as a suit against the entity (here, the County) and proceeds under a theory of “municipal liability.” *See Lopez v. LeMaster*, 172 F.3d 756, 762 (10th Cir.1999); *see also Monell v. Dep’t of Soc. Servs. of N.Y.C.*, 436 U.S. 658, 707-08

(1978). Such liability requires an underlying constitutional violation. *See Olsen v. Layton Hills Mall*, 312 F.3d 1304-1317-18 (10th Cir.2002). Likewise, without a constitutional violation, a claim of failure to train and supervise fails. *Graves v. Thomas*, 450 F.3d 1215, 1218 (10th Cir.2006).

It is the order of the court that the motion for summary judgment of defendant Rob Frazier (#86) is hereby granted.

IT IS SO ORDERED this 22nd day of OCTOBER, 2019.

A handwritten signature in cursive script, reading "Ronald A. White", written in dark ink.

RONALD A. WHITE
UNITED STATES DISTRICT JUDGE